## REMARKS

The Non-Final Office Action mailed February, 27 2007 has been received and reviewed. Claims 1-27 are pending in the subject application. All claims stand rejected. Claims 19–27 have been amended as hereinabove set forth. Reconsideration of the present application in view of the above amendments and the following remarks is respectfully requested.

### Rejections based on 35 U.S.C. § 101

Claims 19-27 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 19 has been amended herein to recite one or more computer-readable media having computer-executable instructions embodied thereon for managing clinically related supply procurement according to outcomes. It is respectfully submitted that the recited computer-readable media represents statutory subject matter and, accordingly, the rejection of this claim has been overcome. Each of claims 20-27 depends, either directly or indirectly, from independent claim 19. Accordingly, each of these claims has been amended to properly reference independent claim 19 and is believed to be directed to statutory subject matter for at least the above-cited reasons. Accordingly, withdrawal of the 35 U.S.C. § 101 rejection of claims 19–27 is respectfully requested.

### Rejections based on 35 U.S.C. § 102

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . .

claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-27 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,682,728 to DeBusk, et al. (hereinafter the "DeBusk reference"). As the DeBusk reference fails to describe, either expressly or inherently, each and every element set forth in the rejected claims, Applicant,s respectfully traverses this rejection, as hereinafter set forth.

Independent claim 1 recites a system for managing clinically related supply procurement according to outcomes. As set forth in the Detailed Description, outcomes include, for instance, "recovery times, surgical infections or other complications" and/or other patient results, *e.g.*, "the mean survival time for patients receiving an antimicrobial-coated stent or infection rate for patients receiving an orthopedic prosthesis [of] a certain type or manufacture." Detailed Description at ¶ [0036]. The system recited in claim 1 comprises a first interface to receive patient supply data captured from at least one clinically related site, the patient supply comprising patient supply consumption data; a second interface to receive clinical outcomes data from the at least one clinically related site; and an analytic engine, the analytic engine communicating with the first interface and the second interface to generate comparative clinical supply reports based at least on the clinical outcomes data.

The DeBusk reference, on the other hand, describes the management of consumable medical supplies by creating bills of material associated with care events within a clinical pathway. *See* DeBusk reference at col. 2 lines 29-37. A bill of materials representing those medical supplies that have been identified as "to be used" for a given care event is generated and supplies are aggregated into supply bundles at a plurality of locations and

delivered to the end-user of the aggregated supplies. *See id.* at col. 2 line 50–col. 3, line 2; col. 3, line 34. The DeBusk reference also discloses anticipating supply usage based upon historical records relating to the frequency of occurrence of given care events at a particular facility and/or aggregated facility usage of common medical supplies over time. *See id.* at col. 2 line 59–col. 6, line 13.

However, the DeBusk reference fails to describe, either expressly or inherently, managing clinically related supply procurement according to outcomes, as recited in independent claim 1. More particularly, the DeBusk reference fails to describe, either expressly or inherently, an "interface to receive **clinical outcomes data** from at least one clinically related site" and/or an "analytic engine communicating with the first interface and the second interface to generate comparative clinical supply reports **based at least on the clinical outcomes data**". In fact, the DeBusk reference does not describe tracking or utilizing clinical outcomes data at all. It is stated in the Office Action that clinical outcomes data is described at column 4, lines 30-50 of the DeBusk reference. *See*, Office Action at p. 3, ¶ 6. It is respectfully submitted, however, that the referenced portion of the DeBusk reference merely describes a bill of materials that might be generated for a particular medical procedure. As set forth above, a bill of materials represents a list of consumable medical supplies that are required for a particular care event in a clinical pathway. This list of consumables does not contain any information regarding clinical outcomes and any correlation

As the DeBusk reference fails to describe, either expressly or inherently, each and every element set forth in claim 1, it is respectfully submitted that the DeBusk reference does not anticipate independent claim 1. Each of claims 2-9 depends, either directly or indirectly, from independent claim 1. Accordingly, it is respectfully submitted that each of these claims is not

anticipated by DeBusk for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-9 is respectfully requested.

Independent claim 10 recites a method for managing clinically related supply procurement according to outcomes. The method comprises receiving patient supply data captured from at least one clinically related site, the patient supply data consisting of at least one of items used and consumed during the patient's treatment; receiving clinical outcomes data from the at least one clinically related site; and generating comparative clinical supply reports based at least on the clinical outcomes data.

As set forth above, it is respectfully submitted that the DeBusk reference fails to describe, either expressly or inherently, managing clinically related supply procurement according to outcomes, as recited in independent claim 10. More particularly, the DeBusk reference fails to describe, either expressly or inherently, "receiving **clinical outcomes data** from at least one clinically related site" and/or "generating comparative clinical supply reports **based at least on the clinical outcomes data**". In fact, the DeBusk reference does not describe tracking or utilizing clinical outcomes data at all.

As the DeBusk reference fails to describe, either expressly or inherently, each and every element recited in claim 10, it is respectfully submitted that the DeBusk reference does not anticipate independent claim 10. Each of claims 11-18 depends, either directly or indirectly, from independent claim 10. Accordingly, each of these claims is not anticipated by the DeBusk reference for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 10-18 is respectfully requested.

Independent claim 19, as amended herein, recites one or more computer-readable media having computer-executable instructions embodied thereon for performing a method for

managing clinically related supply procurement according to outcomes. The method comprises receiving patient supply data captured from at least one clinically related site, the patient supply data comprising patient supply consumption data; receiving clinical outcomes data from the at least one clinically related site; generating comparative clinical supply reports based at least on the clinical outcomes data; and storing the comparative clinical supply report in computer accessible memory.

It is respectfully submitted that the DeBusk reference fails to describe, either expressly or inherently, managing clinically related supply procurement according to outcomes, as recited in amended independent claim 19. More particularly, the DeBusk reference fails to describe, either expressly or inherently, "receiving **clinical outcomes data** from at least one clinically related site" and/or "generating comparative clinical supply reports **based at least on the clinical outcomes data**". In fact, the DeBusk reference does not describe tracking or utilizing clinical outcomes data at all.

As the DeBusk reference fails to describe, either expressly or inherently, each and every element recited in amended independent claim 19, it is respectfully submitted that the DeBusk reference does not anticipate independent claim 19, as amended herein. Each of claims 20-27 depends, either directly or indirectly, from independent claim 19. Accordingly, each of these claims is not anticipated by the DeBusk reference for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 19-27 is respectfully requested.

## CONCLUSION

For at least the reasons stated above, claims 1-27 are believed to be in condition for allowance. As such, Applicant respectfully requests withdrawal of the pending rejections and allowance of claims 1-27. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned by telephone prior to issuing a subsequent action.

A fee for one-month extension of time is submitted herewith. It is believed that no additional fee is due in conjunction with the present communication. However, if this belief is in error, the Commissioner is hereby authorized to charge any additional amount required to Deposit Account No. 19-2112, referencing attorney docket number CRNI.111422.

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Respectfully submitted,

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